

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2082**

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**Introduced by Committee on Education (Brownley (Chair),  
Nestande (Vice Chair), Ammiano, Arambula, Buchanan, Carter,  
Eng, Solorio, and Torlakson)**

February 18, 2010

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An act to add Sections 41344.11, 41344.12, and 41344.13 to the Education Code, and to amend Section 17559 of, and to add Sections 17562.5 and 17579.5 to, the Government Code, relating to local educational agencies.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2082, as amended, Committee on Education. Local educational agencies: reimbursable state mandates.

(1) Existing law establishes a procedure for local governmental agencies to file, with the Commission on State Mandates (commission), claims for reimbursement of specified costs associated with state-mandated local programs, and sets forth the procedure for a determination by the commission for eligibility for reimbursement, appropriation, and payment of claims, including payment pursuant to the enactment of a local government claims bill, the establishment of interest accrued on claims, and the review of state mandates by the Legislative Analyst generally.

This bill would express the intent of the Legislature that statutes creating a reimbursable state mandate on school districts be periodically reviewed, and that the Legislature consider recommendations on whether

those statutes should be amended, repealed, or remain unchanged. The bill would require that, in addition to a report submitted pursuant to existing law, the Legislative Analyst review and report on each reimbursable state mandate relating to local educational agencies that meets prescribed criteria. The bill would specify the information to be provided in the review and report, and would require that the review and report be provided to the chairpersons of the Assembly Committee on Education, the Senate Committee on Education, and the fiscal committees of the Assembly and the Senate, on or before the January 1 following the adjournment of the regular session of the Legislature for which the review was made.

(2) Existing law authorizes a local agency claimant to file with the commission an incorrect reduction claim pursuant to regulations adopted by the commission if the Controller reduces a state mandate reimbursement claim approved by the commission. Existing law authorizes a local agency claimant that is eligible to file an incorrect reduction claim to file a consolidated incorrect reduction claim on behalf of other local agency claimants whose claims for reimbursement under the same mandate are alleged to have been incorrectly reduced if specified conditions apply. Existing law also authorizes the commission, on its own initiative, to consolidate incorrect reduction claims filed with the commission by different claimants under the same mandate if specified conditions apply.

This bill, commencing with the 2011–12 fiscal year, instead would authorize a local educational agency to file an incorrect reduction claim as an appeal with the Education Audit Appeals Panel (panel) and would specify deadlines for the filing and hearing. The bill would authorize the consolidation of these appeals and would authorize the panel to adopt regulations necessary to establish procedures for receiving or consolidating appeals and for providing a hearing on a consolidated appeal. The bill would require the commission, by July 1, 2011, to transfer all pending incorrect reduction claims filed on or before June 30, 2011, by a local educational agency and all documentation and commission working papers related to those claims to the panel. The bill would deem any incorrect reduction claim transferred pursuant to the bill to have been appealed to the panel and would require the panel to hold a hearing on or before specified dates, as applicable.

(3) Existing law authorizes the commission to order a reconsideration of all or part of a test claim or incorrect reduction claim on petition of any party.

This bill, commencing with the 2011–12 fiscal year, would prohibit the commission from ordering a reconsideration of all or part of any incorrect reduction claim that is eligible to be filed with the panel pursuant to a specified provision of the bill described in (2) above.

(4) Existing law requires the Legislative Counsel, when a bill is introduced in the Legislature, and each time a bill is amended, to determine whether the bill mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution. Existing law requires that any bill introduced or amended for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution contain a section specifying that reimbursement shall be made pursuant to specified statutory provisions or that the mandate is being disclaimed and the reason therefor.

This bill would require that a bill that would impose a state-mandated local program on a local educational agency, as determined by the Legislative Counsel Bureau, include a provision that repeals the state-mandated local program, or makes the requirement inoperative, no later than a date 5 years following the date upon which the bill, as enacted, becomes operative. The bill would require the Legislative Counsel, to include that provision in the bill unless the person requesting the bill or amendment directs the Legislative Counsel to do otherwise.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 41344.11 is added to the Education Code,  
2     to read:  
3     41344.11. (a) Notwithstanding Sections ~~17558.7~~ 17551, 17552,  
4     ~~17558.7~~, and 17558.8 of the Government Code, commencing with  
5     the 2011–12 fiscal year, a local educational agency may file an  
6     incorrect reduction claim as an appeal with the Education Audit  
7     Appeals Panel in accordance with Section 41344.1 within 60 days  
8     of the date on which the Controller notifies the local educational  
9     agency that a mandate reimbursement claim filed by that local  
10    educational agency has been adjusted to reduce the overall  
11    reimbursement. The panel shall conduct a hearing within 90 days  
12    of the date on which it receives the appeal. A local educational  
13    agency may present evidence or arguments at the hearing if the

1 agency asserts that the Controller's notice contains any finding  
2 that was based on errors of fact or interpretation of law, or if the  
3 agency asserts in good faith that it was in ~~substantial~~ compliance  
4 with all legal requirements. If the panel determines that the agency  
5 is correct in its assertion, in whole or in part, the panel shall inform  
6 the Controller of its determination, and the Controller shall adjust  
7 the agency's claim accordingly.

8 (b) For the purposes of applying subdivision (c) of Section  
9 41344.1 to an appeal filed pursuant to subdivision (a), ~~"substantial~~  
10 ~~compliance"~~ *"compliance"* means ~~nearly~~ complete adherence to  
11 all elements of the parameters and guidelines adopted for that  
12 mandate claim by the Commission on State Mandates and to all  
13 elements of the claiming instructions for that mandate claim issued  
14 by the Controller.

15 (c) Notwithstanding any other provision of law, this section  
16 may not be waived pursuant to any provision of this code, except  
17 as provided in this section or Section 41344.1.

18 (d) For purposes of this section, "local educational agency" does  
19 not include a community college district.

20 SEC. 2. Section 41344.12 is added to the Education Code, to  
21 read:

22 41344.12. (a) A local educational agency filing an incorrect  
23 reduction claim as an appeal with the Education Audit Appeals  
24 Panel pursuant to Section 41344.11 may file a consolidated appeal  
25 on behalf of other local educational agencies whose claims for  
26 reimbursement under the same mandate are alleged to have been  
27 incorrectly reduced if all of the following apply:

28 (1) The method, act, or practice that the local educational agency  
29 alleges led to the reduction has led to similar reductions of other  
30 parties' claims, and all of the claims involve common questions  
31 of law or fact.

32 (2) The common questions of law or fact among the claims  
33 predominate over any matter affecting only an individual claim.

34 (3) The consolidation of similar claims by individual local  
35 educational agencies would result in consistent decisionmaking  
36 by the Education Audit Appeals Panel.

37 (4) The local educational agency filing the consolidated appeal  
38 would fairly and adequately protect the interests of the other local  
39 educational agencies.

1 (b) If a local educational agency intends to file a consolidated  
2 appeal pursuant to this section, the agency shall notify the  
3 Education Audit Appeals Panel of its intent, on a form provided  
4 by the panel, at the time it files its incorrect reduction claim and  
5 appeal.

6 (c) Within 10 days after receipt of a notice of intent to  
7 consolidate, the Education Audit Appeals Panel shall request that  
8 the Controller provide the panel and the local educational agency  
9 with a list of local educational agencies for whom the Controller  
10 has reduced similar claims under the same mandate. Upon receipt  
11 of this list from the Controller, the local educational agency may  
12 notify other local educational agencies on the list and other  
13 interested parties of its intent to file a consolidated appeal.

14 (d) Within 30 days of receipt of the notice of intent to  
15 consolidate from the original local educational agency, any other  
16 eligible local educational agency shall file with the Education  
17 Audit Appeals Panel its notice of intent, on a form provided by  
18 the panel, to join the consolidated appeal. The notice of intent shall  
19 include a copy of the remittance advice or other notice from the  
20 Controller of the claim reduction and one copy of the  
21 reimbursement claims for which an incorrect reduction is alleged.

22 (e) The Education Audit Appeals Panel shall notify each local  
23 educational agency that files an intent to join the consolidated  
24 appeal that it may opt out of the consolidated appeal and not be  
25 bound by any determination made on that consolidated appeal. A  
26 local educational agency may opt out of a consolidated appeal no  
27 later than 15 days prior to the initial hearing on the consolidated  
28 appeal. A local educational agency that opts out of the consolidated  
29 appeal, in order to preserve its right to challenge a reduction made  
30 by the Controller on that same mandate, shall file an individual  
31 incorrect reduction claim as an appeal pursuant to Section 41344.11  
32 no later than 30 days after opting out.

33 (f) The Education Audit Appeals Panel, on its own initiative,  
34 may consolidate incorrect reduction claims and appeals filed with  
35 the panel by different local educational agencies under the same  
36 mandate if each of the conditions specified in paragraphs (1) to  
37 (3), inclusive, of subdivision (a) applies.

38 (g) The Education Audit Appeals Panel may adopt regulations  
39 necessary to establish procedures for receiving a consolidated

1 appeal or for consolidating appeals pursuant to this section, and  
2 for providing a hearing on a consolidated appeal.

3 (h) For purposes of this section, “local educational agency” does  
4 not include a community college district.

5 SEC. 3. Section 41344.13 is added to the Education Code, to  
6 read:

7 41344.13. (a) By July 1, 2011, the Commission on State  
8 Mandates shall transfer all pending incorrect reduction claims filed  
9 on or before June 30, 2011, by a local educational agency and all  
10 documentation and commission working papers related to those  
11 claims to the Education Audit Appeals Panel.

12 (b) Any incorrect reduction claim transferred pursuant to  
13 subdivision (a) shall be deemed to have been appealed to the  
14 Education Audit Appeals Panel, and the panel shall hold a hearing  
15 pursuant to Section 41344.11 on or before the following dates:

16 (1) June 30, ~~2011~~ 2012, for incorrect reduction claims filed prior  
17 to January 1, 2005.

18 (2) June 30, ~~2012~~ 2013, for incorrect reduction claims filed on  
19 or after January 1, 2005, and prior to January 1, 2007.

20 (3) June 30, ~~2013~~ 2014, for incorrect reduction claims filed on  
21 or after January 1, 2007, and prior to January 1, 2008.

22 (4) June 30, ~~2014~~ 2015, for incorrect reduction claims filed on  
23 or after January 1, 2008, and prior to July 1, 2011.

24 (c) For purposes of this section, “local educational agency” does  
25 not include a community college district.

26 SEC. 4. Section 17559 of the Government Code is amended  
27 to read:

28 17559. (a) The commission may order a reconsideration of all  
29 or part of a test claim or incorrect reduction claim on petition of  
30 any party. The power to order a reconsideration or amend a test  
31 claim decision shall expire 30 days after the statement of decision  
32 is delivered or mailed to the claimant. If additional time is needed  
33 to evaluate a petition for reconsideration filed prior to the expiration  
34 of the 30-day period, the commission may grant a stay of that  
35 expiration for no more than 30 days, solely for the purpose of  
36 considering the petition. If no action is taken on a petition within  
37 the time allowed for ordering reconsideration, the petition shall  
38 be deemed denied.

39 (b) A claimant or the state may commence a proceeding in  
40 accordance with the provisions of Section 1094.5 of the Code of

1 Civil Procedure to set aside a decision of the commission on the  
2 ground that the commission's decision is not supported by  
3 substantial evidence. The court may order the commission to hold  
4 another hearing regarding the claim and may direct the commission  
5 on what basis the claim is to receive a rehearing.

6 (c) Commencing with the 2011–12 fiscal year, the commission  
7 shall not order a reconsideration of all or part of any incorrect  
8 reduction claim that is eligible to be filed with the Education Audit  
9 Appeals Panel pursuant to Section 41344.11 of the Education  
10 Code.

11 SEC. 5. Section 17562.5 is added to the Government Code, to  
12 read:

13 17562.5. (a) It is the intent of the Legislature that statutes  
14 creating a reimbursable state mandate on local educational agencies  
15 be periodically reviewed, and that the Legislature consider  
16 recommendations on whether those statutes should be amended,  
17 repealed, or remain unchanged.

18 (b) In addition to the report submitted pursuant to subdivision  
19 (c) of Section 17562, at least once in each regular session of the  
20 Legislature, the Legislative Analyst shall review and report on  
21 each reimbursable state mandate relating to local educational  
22 agencies that meets each of the following criteria:

23 (1) Pursuant to Section 17551, the Commission on State  
24 Mandates has determined the existence of a reimbursable  
25 state-mandated program.

26 (2) A claim for reimbursement has been filed with the Controller  
27 by a school district, county office of education, or other eligible  
28 local educational agency.

29 (3) The Legislature has not provided an appropriation to fully  
30 fund current and pending claims for reimbursement filed with the  
31 Controller.

32 (c) The review and report prepared by the Legislative Analyst  
33 pursuant to subdivision (b) shall:

34 (1) Include all of the following for each mandate:

35 (A) A summary and its statutory source.

36 (B) Fiscal information, including, but not necessarily limited  
37 to, the claims paid to date, unpaid claims, pending claims, and the  
38 history of appropriations for the mandate.

39 (C) Recommendations as to whether the mandate should be  
40 amended, repealed, or remain unchanged.

1 (2) Be provided to the chairpersons of the Assembly Committee  
2 on Education, the Senate Committee on Education, and the fiscal  
3 committees of the Assembly and the Senate, on or before the  
4 January 1 following the adjournment of the regular session of the  
5 Legislature for which the review was made.

6 (d) *For purposes of this section, “local educational agency”*  
7 *does not include a community college district.*

8 SEC. 6. Section 17579.5 is added to the Government Code, to  
9 read:

10 17579.5. (a) A bill that, as introduced or amended in either  
11 house of the Legislature, would impose a state-mandated local  
12 program on a local educational agency, as determined by the  
13 Legislative Counsel Bureau pursuant to Section 17575, shall  
14 include a provision that repeals the state-mandated local program,  
15 or makes the requirement inoperative, no later than a date five  
16 years following the date upon which the bill, as enacted, becomes  
17 operative.

18 (b) The Legislative Counsel, in drafting a bill for introduction  
19 or an amendment to a bill that would impose a state-mandated  
20 local program on a local educational agency, as described in  
21 subdivision (a), shall include a provision that repeals the  
22 state-mandated local program on a local educational agency, or  
23 makes the requirement inoperative, five years after the date on  
24 which the requirement becomes operative, unless the person  
25 requesting the bill or amendment directs the Legislative Counsel  
26 to do otherwise.